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**BEFORE THE ARIZONA CORPORATION**

**COMMISSIONERS**

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER COMPANY,  
LLC FOR APPROVAL OF FINANCING TO  
INSTALL A WATER LINE FROM THE WELL ON  
TIEMAN TO WELL NO. 1 ON TOWERS.

DOCKET NO. W-04254A-12-0204

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER COMPANY,  
LLC FOR APPROVAL OF FINANCING TO  
PURCHASE THE WELL NO. 4 SITE AND THE  
COMPANY VEHICLE.

DOCKET NO. W-04254A-12-0205

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER COMPANY,  
LLC FOR APPROVAL OF FINANCING FOR AN  
8,000-GALLON HYDRO-PNEUMATIC TANK.

DOCKET NO. W-04254A-12-0206

IN THE MATTER OF THE RATE APPLICATION  
OF MONTEZUMA RIMROCK WATER  
COMPANY, LLC.

DOCKET NO. W-04254A-12-0207

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On May 31, 2012, Montezuma Rimrock Water Company, LLC ("Montezuma") filed with the Arizona Corporation Commission ("Commission") the following: In Docket No. W-04254A-12-0204, an application for approval of a loan agreement in which Montezuma promises to pay Rask Construction ("Rask") the sum of \$68,592 with interest for Rask's installation of a water line from the well on Tieman to Well No. 1 on Towers ("Rask Financing"); in Docket No. W-04254A-12-0205, an application for approval of a loan agreement in which Montezuma promises to pay Patricia Olsen the sum of \$21,377 with interest for the purchase of the Well No. 4 site and a company vehicle ("Olsen Site and Vehicle Financing"); in Docket No. W-04254A-12-0206, an application for approval of a loan agreement in which Montezuma promises to pay Sergei Arias the sum of \$15,000 with interest for the purchase of an 8,000-gallon hydro-pneumatic tank to provide additional water storage to Montezuma's system ("Arias Tank Financing"); and in Docket No. W-04254A-12-0207, an application for a rate increase ("Rate Application").

1 On June 7, 2012, John E. Dougherty, III filed, in each of the dockets referenced above, a  
2 Motion to Intervene ("Motion"), in which Mr. Dougherty requested intervention, requested that the  
3 dockets be consolidated, and asserted that an evidentiary hearing was necessary for the four dockets.  
4 No responses to Mr. Dougherty's Motion were filed. Thus, on June 25, 2012, a Procedural Order  
5 was issued in each of the four dockets granting Mr. Dougherty intervention and requiring Montezuma  
6 and the Commission's Utilities Division ("Staff") to file in each of the four dockets, by July 16, 2012,  
7 a response to Mr. Dougherty's request for consolidation and assertion that a hearing must be held.  
8 The Procedural Orders further required Montezuma, in its responses, to identify who would be  
9 serving as Montezuma's representative in each matter.

10 On July 16, 2012, in each docket, Montezuma filed a response opposing an evidentiary  
11 hearing for the financing dockets as unnecessary and opposing consolidation of the four dockets.  
12 Montezuma did not identify its representative other than through the signature of Patricia Olsen on  
13 each document.

14 On July 16, 2012, in each docket, Staff filed a response supporting consolidation of the four  
15 dockets and taking no position on whether an evidentiary hearing should be held for the dockets.  
16 Staff stated that a hearing is not required for the Rate Application due to Montezuma's being smaller  
17 than a Class C utility but that Staff would not oppose holding an evidentiary hearing.

18 Montezuma's financial position must be established and considered for the Commission to  
19 make a decision as to each of the four applications. Considering each of Montezuma's applications  
20 in a separate docket would result in significant redundancies and increased expenses for all parties, as  
21 much of the same information would need to be elicited and provided in each separate docket. The  
22 Commission's ability efficiently to analyze Montezuma's three financing applications and to set just  
23 and reasonable rates for Montezuma in the Rate Application docket would be hampered if the four  
24 dockets were not consolidated. Furthermore, no party's rights would be prejudiced by consolidation  
25 of the four dockets because the overriding issues of Montezuma's financial position and financial  
26 needs exist within each docket, and consolidation should decrease redundancies and administrative  
27 burdens. Thus, the four dockets will be consolidated.

28 The Commission is not required to hold an evidentiary hearing to consider a financing

1 application or to consider a rate application for a water utility smaller than a Class C.<sup>1</sup> However, the  
2 Commission, in its discretion, may hold an evidentiary hearing to consider any application, if it is  
3 believed that the public interest would be best served by holding an evidentiary hearing. Because an  
4 evidentiary hearing will provide the best opportunity for the facts to be established regarding  
5 Montezuma's financial position and financial needs, an evidentiary hearing will be required in this  
6 matter. However, it would be premature to establish a procedural schedule until such time as Staff  
7 determines that Montezuma's Rate Application and financing applications are sufficient.

8 Ms. Olsen's signature on each of the responses filed in the above-referenced dockets is  
9 understood to be an assertion by Montezuma that Ms. Olsen will serve as Montezuma's  
10 representative in these matters. If Montezuma intends instead to be represented before the  
11 Commission in these matters by an attorney or another individual eligible to represent Montezuma  
12 before the Commission as provided under Arizona Supreme Court Rule 31(d)(28), Montezuma shall  
13 file a Notice of Appearance for such individual.

14 IT IS THEREFORE ORDERED that **Docket Numbers W-04254A-12-0204, W-04254A-12-**  
15 **0205, W-04254A-12-0206, and W-04254A-12-0207 are hereby consolidated.**

16 IT IS FURTHER ORDERED that **an evidentiary hearing shall be held in this consolidated**  
17 **matter**, but will not be scheduled until after Staff has determined that Montezuma's Rate Application  
18 and financing applications are sufficient.

19 IT IS FURTHER ORDERED that **if Montezuma intends to be represented** before the  
20 Commission in these matters by an attorney or another individual eligible to represent Montezuma  
21 before the Commission as provided under Arizona Supreme Court Rule 31(d)(28), **Montezuma shall**  
22 **file a Notice of Appearance** for such individual.

23 IT IS FURTHER ORDERED that **discovery** shall be as permitted by law and the rules and  
24 regulations of the Commission, except that any objection to discovery requests shall be made within  
25 7 calendar days of receipt<sup>2</sup> and responses to discovery requests shall be made within 10 calendar days  
26

27 <sup>1</sup> See A.R.S. §§ 40-250(A), 40-302(A); A.A.C. R14-2-103(B).

28 <sup>2</sup> The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. Arizona time will be considered as received the next business day.

1 of receipt. The response time may be extended by mutual agreement of the parties involved if the  
2 request requires an extensive compilation effort.

3 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a  
4 receiving party requests service to be made electronically, and the sending party has the technical  
5 capability to provide service electronically, service to that party shall be made electronically.

6 IT IS FURTHER ORDERED that the parties **shall** attempt to settle discovery disputes  
7 through informal, good-faith negotiations before seeking Commission resolution of the controversy.

8 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel  
9 discovery, any party seeking resolution of a discovery dispute may telephonically contact the  
10 Commission's Hearing Division to request a date for a procedural conference to resolve the discovery  
11 dispute; that upon such a request, a procedural conference will be convened as soon as practicable;  
12 and that the party making such a request shall forthwith contact all other parties to advise them of the  
13 procedural conference date and shall at the procedural conference provide a statement confirming that  
14 the other parties were contacted.

15 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed  
16 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall  
17 be deemed denied.

18 IT IS FURTHER ORDERED that any response to a motion shall be filed within five calendar  
19 days of the filing date of the motion.

20 IT IS FURTHER ORDERED that any reply shall be filed within five calendar days of the  
21 filing date of the response.

22 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
23 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

24 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113—Unauthorized  
25 Communications) applies to this proceeding and shall remain in effect until the Commission's  
26 Decision in this matter is final and non-appealable.

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or  
2 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 24<sup>th</sup> day of July, 2012.

5  
6 

7 SARAH N. HARPRING  
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered  
10 this 24<sup>th</sup> day of July, 2012 to:

11 Patricia Olsen  
12 MONTEZUMA RIMROCK WATER CO., LLC  
13 P.O. Box 10  
14 Rimrock, AZ 86335

15 John E. Dougherty, III  
16 P.O. Box 501  
17 Rimrock, AZ 86335

18 Janice Alward, Chief Counsel, Legal Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
21 Phoenix, Arizona 85007-2927

22 Steven Olea, Director, Utilities Division  
23 ARIZONA CORPORATION COMMISSION  
24 1200 West Washington Street  
25 Phoenix, Arizona 85007-2927

26  
27 By: 

28 Debra Broyles  
Secretary to Sarah N. Harpring